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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,346	02/21/2002	Ralph M. Weisner	A291-USA	9784
24677	7590	08/11/2005	EXAMINER	
ALFRED E. MANN FOUNDATION FOR SCIENTIFIC RESEARCH PO BOX 905 25134 RYE CANYON LOOP, SUITE 200 SANTA CLARITA, CA 91380			BOCKELMAN, MARK	
			ART UNIT	PAPER NUMBER
			3762	
			DATE MAILED:	08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/081,346	WEISNER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Mark W. Bockelman	3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 May 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,14-17,20 and 31-34 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-13, 18, 19 and 21-30 are is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Mensink et al USPN 4,124,031. Mensik et al teaches a communication system for and implantable pacemaker stimulator. An external magnetic is applied in pulses, see for instance Figures 2a- 2c) where in the time for which the pulse is applied as well as the timing of several pulses is pickup by a sensor, with a controller identifying the timing and the determining the application sequence serving as a key to enable the programming circuit (column 7 lines 62-60, column 15 ,lines 25-55)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-2, 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mensink et al USPN 4,124,031 in view of Schulman et al. USPN 6,164,284.

Claim 1 is similar to claim 18, with the exception that applicant recites dimensions of the housing to which Mensink is silent. Schulman et al (see patent claim 1) demonstrates that applicant's dimensions are within the level of skill in the art. To have merely altered the dimensions of the Mensink device to thos of known scale would have been obvious. The examiner takes official notice that applicant's dependent claims merely recite well know apparti for inducing magnetic fields as well as sensing them. External inductive coils for generating magnetic fields are well known in the art and using magnorestrive sensors or other forms of sensors being well known as well.

Claims 19, 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mensink et al USPN 4,124,031.

As noted above, applicant's dependent claims merely recite well known apparatuses for carrying out data transmission within implantable devices.

***Response to Arguments***

Applicant's arguments filed 5-16-2005 have been fully considered but they are not persuasive. Applicant does not adequately define the output circuitry and thus in Mensink the output circuitry may be considered the controller switch that enables further programming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272 -4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

August 8, 2005



MARK BOCKELMAN  
PRIMARY EXAMINER